

ORDINANCE NO. 1769

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1712, THE ZONING ORDINANCE, AND AMENDING ORDINANCE NUMBER 1440, (TITLE 17 OF THE MILWAUKIE MUNICIPAL CODE) THE SUBDIVISION ORDINANCE (ZA-94-05).

WHEREAS, the Milwaukie City Planning Commission initiated this project in order to provide clear and objective standards to the Variance process, and

WHEREAS, it is the intent of the City Comprehensive Plan that implementation ordinances be consistent and meet the intent of the processes and policies supported by the Comprehensive Plan, and

WHEREAS, public hearings were held on this matter by the City Planning Commission on June 28, 1994, and by the City Council on July 19, 1994,

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. Findings of fact in support of the proposed amendments are as follows:

1. Planning text amendments must meet the criteria of Sections 904 and 905 of the City Zoning Ordinance. These criteria are addressed in subsequent findings.
2. Section 904.1A. requires:

Applicable requirements of Section 1003.

Section 1003 requires a completed application and site plan. An application is included in File ZA-94-05; however, since this is a legislative text amendment, no site plan is required.

2. Section 904.1B. requires:

Reasons for requesting the proposed text amendments.

The Milwaukie City Planning Commission initiated the process to revise the variance criteria because the criteria is subjective and often requires interpretation. This was completed as part of ZA-94-01. ZA-94-05 is intended to insert the new variance criteria within the Subdivision Ordinance for consistency, to amend the flag lot section to bring it into compliance with Uniform Fire Code provisions regarding turnarounds, and to eliminate references within the Zoning Ordinance to height and density variance references which were eliminated by ZA-94-01.

3. Section 904.1C. requires:

Explanation of how the proposed text amendment is consistent with other provisions of this Ordinance.

The proposed text amendments shown in Exhibits A and B. provide clearer and consistent language for zoning and subdivision variance processes, provide compliance with provisions for turnarounds within the Uniform Fire Code, and insure consistency of requirements within the overall text of the Zoning and Subdivision Ordinances.

4. Section 904.1D. requires the following be satisfied.

The approval criteria of Section 905.

These criteria are satisfied in subsequent findings.

5. Section 905.1A. requires:

The proposed amendment must conform to applicable Comprehensive Plan goals, policies, and objectives and be consistent with the provision of City ordinances.

Objective 2 of the Plan Review and Amendment Process Chapter within the Comprehensive Plan requires the Comprehensive Plan be implemented through appropriate ordinances and action.

Modifications to these sections of the Zoning and Subdivision Ordinances will have the effect of making the variance and flag lot processes more appropriate and easier to implement because of the use of clearer objectives and standards. This will reduce the possibility of conclusions or decisions that are discretionary in nature and make the decision process more understandable to both the public and decision makers.

By revising these sections, variance and flag lot processes will also be implemented "more appropriately," thus meeting the intent of Objective 2.

Objective 5 (Housing Choice) within the Residential Land Use and Housing Element specifically promotes infill housing. Proposed changes to the Subdivision flag lot provisions are intended to help promote infill housing for lots that might be difficult to access or that may require special access treatment for emergency services.

6. Section 905.1B. requires:

The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The Planning Commission and City Council shall use its discretion to weight these factors in determining the intent of the proposed zone.

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The factors mentioned relate to a physical development proposal and are not applicable to a legislative text amendment.

7. Section 905.1C. requires:

The proposed amendment will meet or can be determined to reasonably meet applicable regional, State, or federal regulations.

Variances are not specifically addressed by regional, State, or federal regulations. However, court case records have held that local government processes must include "clear and objective standards." The primary intent of this amendment is to provide clarification to the variance process in the form of "clear and objective standards."

Secondarily, flag lot turnaround provisions within the Subdivision Ordinance are currently inconsistent with provisions within the Uniform Fire Code. The proposed changes eliminate inconsistencies.

8. Section 905.1D. requires:

The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

This criterion is not applicable as it relates to a specific development proposal rather than to a text amendment.

Section 2. Zoning Ordinance Text Amendments. The Zoning Ordinance text of Ordinance Number 1712 is amended as described in Exhibit A.


Section 3. Subdivision Ordinance Text Amendments. The Subdivision Ordinance Number 1440 (Title 17 of the Milwaukie Municipal Code) is amended as described in Exhibit B.

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Read the first time on July 19, 1994, and moved to a second reading by unanimous vote of the City Council.

Read the second time and adopted by the City Council on July 19, 1994.


Signed by the Mayor on July 19, 1994.


Craig Lomnicki, Mayor

ATTEST:


Pat Duval, City Recorder

Approved as to form:


O'Donnell Ramis Crew & Corrigan
City Attorney

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(8 pages)
BOLD CAPS = Proposed new text
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attached, town house and condominium units lot width shall be at least 30 feet. Average lot depth shall be at least 80 feet. Single-family attached, town house, multifamily condominium, and multifamily apartment dwellings are permitted with less than 3,000 square feet per unit provided that traffic does not move through adjacent lower density areas.

- B. Front yard: A front yard shall be at least 15 feet.
- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street. For interior single-family attached, town house and condominium units, side yards are not required.
- D. Rear yard: A rear yard shall be at least 15 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, ~~but higher structures may be permitted under provisions of Section 707.~~
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 45 percent of the total area of the lot.
- I. Minimum vegetation and open space: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, or left as open space or used as recreational area, etc. will be 35 percent of the total area of the lot. At least half of this area will be of the same general character as the area with dwelling units.
- J. Access requirements: Every lot shall abut a public street other than an alley for at least 35 feet except as provided in the Subdivision Ordinance. Lots for interior single-family attached, town house and condominium units shall abut a public street for at least 20 feet.
- K. Transition area: A transition area shall be maintained according to Section 413.

SECTION 307 - RESIDENTIAL-BUSINESS OFFICE-
COMMERCIAL ZONE R-1-B

307.3 Standards

In an R-1-B Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 5,000 square feet. Lot area for the first dwelling unit shall be at least 5,000 square feet and for each dwelling unit over one there shall be not less than an average of 1,400 square feet. Lot width shall be at least 50 feet. For interior single-family attached town house and condominium units this lot width shall be at least 30 feet.
- B. Front yard: A front yard shall be at least 15 feet.
- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street.
- D. Rear yard: A rear yard shall be at least 15 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, ~~but higher structures may be permitted under provisions of Section 707.~~
- H. Lot coverage: maximum area that may be covered by the principal structure and accessory buildings shall not exceed 50 percent of the total area of the lot.
- I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, etc. shall be 15 percent of the total area of the lot.
- J. Access requirement: Every lot shall abut a public street other than an alley for at least 35 feet except as provided in the Subdivision Ordinance. Lots for interior single-family attached town house and condominium units shall abut a public street for at least 20 feet.
- K. Transition area: A transition area shall be maintained according to Section 413.

308.3 Standards

In an R-1 Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 5,000 square feet. Lot area for the first dwelling unit shall be at least 5,000 square feet and there shall be not less than 1,400 square feet for each dwelling unit over one. Lot width shall be at least 50 feet. Lot width for single-family attached, town house and condominium units shall be at least 30 feet. Average lot depth shall be at least 80 feet. Single-family attached, town house, multifamily condominium, multifamily apartment dwellings are permitted with less than 3,000 square feet per unit provided that traffic does not move through adjacent lower density areas.
- B. Front yard: A front yard shall be at least 15 feet.
- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street. For interior single-family attached, town house and condominium units, side yards are not required.
- D. Rear yard: A rear yard shall be at least 15 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, ~~but higher structures may be permitted under provisions of Section 707.~~
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 45 percent of the total area of the lot.
- I. Minimum vegetation and open spaces: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, or left as open space or used as recreational area, etc. will be 35 percent of the total area of the lot. At least half of this area will be of the same general character as the area with dwelling units.
- J. Access requirements: Every lot shall abut a public street other than an alley for at least 35 feet except as provided in the Subdivision Ordinance. Lots for interior single-family attached, town house and condominium units shall abut a public street for at least 20 feet.
- K. Transition area: A transitional area shall be maintained according to Section 413.
- L. Use restrictions: Authorized commercial uses are permitted on the ground floor only. Office uses are permitted on the ground level and first floor. At least fifty (50) percent of the floor area within a project shall be used for residential purposes.

309.3 Standards

In an R-O-C Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 5,000 square feet. Lot area for the first dwelling unit shall be at least 5,000 square feet and for dwelling units over one there shall be not less than an average of 1,400 square feet. Lot width shall be at least 50 feet. Lot width for interior single-family attached, town house and condominium units shall be at least 30 feet. Average lot depth shall be at least 80 feet.
- B. Front yard: A front yard shall be at least 15 feet.
- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street. For interior single-family attached, town house and condominium units, side yards are not required.
- D. Rear yard: A rear yard shall be at least 15 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, ~~but higher structures may be permitted under provisions of Section 707.~~
- H. Use restrictions: Authorized commercial uses are permitted on the ground floor only. Office uses are permitted on the ground level and first floor. At least fifty (50) percent of the floor area within a project shall be used for residential purposes.
- I. Lot coverage: Maximum area that may be covered by the principal structure and accessory buildings shall not exceed 50 percent of the total area of the lot.
- J. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., shall be 15 percent of the total area of the lot.
- K. Access requirement: Every lot shall abut a public street other than an alley for at least 35 feet except as provided in the Subdivision Ordinance. Lots for interior single-family attached, town house and condominium units shall abut a public street for at least 20 feet.
- L. Transition area: A transition area shall be maintained according to Section 413.

309.4 Prohibited uses

The following uses and their accessory uses are prohibited:

- A. Adult entertainment business.

SECTION 311 - LIMITED COMMERCIAL ZONE C-L

- M. High-impact commercial, except adult entertainment businesses.
- N. Any other use similar to the above and not listed elsewhere.

311.3

Standards

In a C-L Zone the following standards shall apply:

- A. Lot size: None, except as follows for dwelling: Lot area shall be at least 5,000 square feet. Lot area for the first dwelling unit shall be at least 5,000 square feet and for dwelling units over one there shall be not less than an average of 1,000 square feet. Lot width shall be at least 50 feet. Lot width for interior single-family attached, town house and condominium units shall be at least 30 feet. Average lot depth shall be at least 80 feet.
- B. Front yard: None, except as provided in subsections 311.3.E and 311.3.F below.
- C. Side yard: None, except as provided in subsections 311.3.E and 311.3.F below.
- D. Rear yard: None, except as provided in subsections 311.3.E and 311.3.F below.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standards set forth therein.
- F. Transition area: A transition area shall be maintained according to Section 413.
- G. Access: Entrances from a public street to properties in this zone shall be located to minimize traffic congestion and avoid directing traffic onto residential streets. Every lot shall abut a public street other than an alley for at least 35 feet except as permitted under the Subdivision Ordinance. Lots for interior single-family attached, town house and condominium units shall abut a public street for at least 20 feet.
- H. Off-street parking and loading: As specified in Section 500.
- I. Height restriction: Maximum height of any structure shall be three stories or 45 feet, whichever is less, ~~but higher structures may be permitted, under provisions of Section 707.~~
- J. Open use: A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, shall be screened with a sight-obscuring fence not less than 6 feet high.
- K. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., shall be 15 percent of the total area of the lot.

311.4

Prohibited uses

The following uses and their accessory uses are prohibited:

- A. Adult entertainment businesses.

SECTION 312 - CENTRAL COMMERCIAL ZONE C-C

312.3 Standards

In a C-C Zone the following standards shall apply:

- A. Lot size: None. Lot width shall be at least 50 feet. Average lot depth shall be at least 80 feet.
- B. Front yard: None, except as provided in subsections 312.3.E and 312.3.F below.
- C. Side yard: None, except as provided in subsections 312.3.E and 312.3.F below.
- D. Rear yard: None, except as provided in subsections 312.3.E and 312.3.F below.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standards set forth therein.
- F. Transition area: A transition area shall be maintained according to Section 413.
- G. Access: Entrances from a public street to properties in this zone shall be located to minimize traffic congestion and avoid directing traffic onto residential streets. Every lot shall abut a public street other than an alley for at least 35 feet.
- H. Off-street parking and loading: As specified in Section 500.
- I. Height restriction: Maximum height of a structure shall be four stories or 60 feet, whichever is less, ~~but higher structures may be permitted if approved by the Planning Commission after a public hearing as provided in subsection 1011.3 under provisions of Section 707.~~
- J. Lot coverage: Maximum area that may be covered by buildings and structures shall not exceed 85 percent of the total area of the lot.
- K. Open use: A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, or which would be visible from a public street shall be screened with a sight-obscuring fence not less than 6 feet.
- L. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, bark dust for planting beds, etc., shall be 15 percent of the total area of the lot.

312.4 Prohibited uses

The following uses and their accessory uses are prohibited:

- A. Adult entertainment business.

SECTION 313 - GENERAL COMMERCIAL ZONE C-G

- I. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, ~~but higher structures may be permitted if approved by the Planning Commission after a public hearing as provided in subsection 1011.3, under provisions of Section 707.~~
- J. Lot coverage: Maximum area that may be covered by buildings and structures shall not exceed 85 percent of the total area of the lot.
- K. Open use: A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, or which would be visible from a public street shall be screened with a sight-obscuring fence not less than 6 feet high.

Except for open storage, the following uses shall be conducted within an enclosed building:

- 1. Carpenter or cabinet shop.
 - 2. Furniture upholstering.
 - 3. Plumbing shop.
 - 4. Repair garage.
 - 5. Sign painting shop.
 - 6. Tire shop.
 - 7. Heating or ventilation shop.
- L. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, bark dust for planting beds, etc., shall be 15 percent of the total area of the lot.

313.4 Prohibited uses

The following uses and their accessory uses are prohibited:

- A. Adult entertainment business.

SECTION 324 - BUSINESS INDUSTRIAL ZONE BI

- D. Rear yard: No rear yard shall be required except as provided in subsection 324.6.E below.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standards set forth herein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Site access: One curb cut (45 feet maximum) per 150 feet of street frontage, or fraction thereof, for industrial uses; and one curb cut per 100 feet of street frontage or fraction thereof, for business park, limited, or conditional uses.
- H. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, ~~but higher structures may be permitted under the provisions of Section 707 provided solar access is not restricted for adjacent properties.~~
- I. Landscaping: 15% of the site must be landscaped, except for sites adjacent to Hwy. 224, which shall provide landscaping to 20% of the site. This should consist of a variety of lawn, trees, shrubbery, and ground cover. Street trees must be provided along street frontages and within required off-street parking lots to help delineate entrances, provide shade and permeable areas for storm water runoff. A bond or financial guarantee for landscape completion shall be required.
- J. Screening and outside storage: Outside storage adjacent to International Way, Freeman Way, 37th Ave., Lake Road, or Hwy. 224 is prohibited.

Outside storage in side or rear yards is allowed, provided it is enclosed by a sight-obscuring fence or vegetative screen.

- K. Building siting and design:

Buildings and sites shall be designed using the following principles:

- 1. Sites shall be developed to the maximum extent practicable, so that buildings have solar access and utilize other natural features in their design;
- 2. Assure that building placement and orientation and landscaping allow ease of security surveillance;
- 3. Design buildings with shapes, colors, materials, textures, lines, and other architectural design features which enhance the character of the district and complement the surrounding area and development, considering, but not limited to, the following techniques:
 - a. Use color, materials, and architectural design to visually reduce the scale and impact of large buildings;

EXHIBIT B

PARTITIONING

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(2 pages)
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- B. ~~For any flag lot, the minimum width of the access strip will be twenty feet, fifteen feet of which must be paved for the full length of the access strip. A paved turnaround area, which is not less than two thousand square feet in area, nor less than forty feet in width or length, shall be provided at the end of the access strip. The turnaround area shall be considered as part of the access way, and shall not be included in areas devoted to required off-street parking.~~

FOR ANY FLAG LOT, THE MINIMUM WIDTH OF THE ACCESS STRIP WILL BE FIFTEEN FEET, TWELVE FEET OF WHICH MUST BE PAVED FOR THE FULL LENGTH OF THE ACCESS STRIP. THE ENTIRE LENGTH OF THE ACCESS STRIP SHALL BE KEPT CLEAR OF OBSTRUCTIONS TO ACCESS. THESE MINIMUM STANDARDS MAY BE INCREASED IF THE COMMUNITY DEVELOPMENT DIRECTOR DETERMINES SUCH IS NECESSARY TO GUARANTEE ADEQUATE AND SAFE ACCESS. A PAVED TURNAROUND AREA, OR OTHER REQUIREMENTS INTENDED TO PROVIDE FOR EMERGENCY ACCESSIBILITY OR REDUCED FIRE POTENTIAL, MAY BE REQUIRED BY THE FIRE MARSHAL TO MEET PROVISIONS OF THE UNIFORM FIRE CODE. IN SUCH A CASE, TURNAROUND STANDARDS, OR OTHER REQUIREMENTS OF THE FIRE MARSHAL, SHALL BE PROVIDED BY THE FIRE MARSHAL.

- C. ~~Where two flag lots will have abutting access strips, the combined width of the two access strips shall not be less than thirty feet. A joint access easement shall be created for the two flag lots, which extends to the deepest lot for the full width of the combined access strips. Within the joint access strip, a common driveway twenty-four feet in width shall be provided which extends from the street to the deepest lot. At the end of the access easement, a joint use paved turnaround shall be provided which is not less than three thousand square feet in area nor less than forty feet in length or width. WITHIN THE JOINT ACCESS STRIP, A COMMON DRIVEWAY WITH A MINIMUM PAVED WIDTH OF TWENTY FEET SHALL BE PROVIDED WHICH EXTENDS FROM THE STREET TO THE DEEPEST PARCEL. AT THE END OF THE JOINT ACCESS EASEMENT, A PAVED TURNAROUND AREA, OR OTHER REQUIREMENTS INTENDED TO PROVIDE FOR EMERGENCY ACCESSIBILITY OR REDUCED FIRE POTENTIAL, MAY BE REQUIRED BY THE FIRE MARSHAL TO MEET PROVISIONS OF THE UNIFORM FIRE CODE. IN SUCH A CASE, TURNAROUND STANDARDS, OR OTHER REQUIREMENTS OF THE FIRE MARSHAL, SHALL BE PROVIDED BY THE FIRE MARSHAL.~~

- D. ~~Proposed flag lots shall be referred to the Public Works and Fire Departments for review and recommendation or decision on appropriate improvements and other requirements to be provided by the partitioner.~~ **PROPOSED FLAG LOTS SHALL BE REFERRED TO THE PUBLIC WORKS DEPARTMENT AND THE FIRE MARSHAL'S OFFICE FOR REVIEW AND RECOMMENDATION OR DECISION ON APPROPRIATE IMPROVEMENTS AND OTHER REQUIREMENTS TO BE PROVIDED BY THE APPLICANT. These may include: paved access driveways constructed to residential street standards; special additional easements for utilities; vertical clearance for fire equipment; sewer lines and pumps; water meters and lines for adequate flows and pressures; fire hydrants; special post for display of house numbers at street entrance to access easement; street lights; and assurance of clear vision conditions at access entrance.**

EXCEPTIONS AND VARIANCES

CHAPTER 17.44. EXCEPTIONS AND VARIANCES

17.44.010. ~~Exception-Large-scale development.~~ The Planning Commission may modify the standards and requirements of this Ordinance if the subdivision plat comprises a complete neighborhood unit, a large-scale shopping center, or a planned industrial area. The Planning Commission shall determine that such modifications are not detrimental to the public health, safety, and welfare and that adequate provision is made within the development for traffic circulation, open space, and other features that may be required in the public interest.

17.44.020. ~~Variance-Application.~~ When necessary, ~~THE COMMUNITY DEVELOPMENT DIRECTOR OR THE PLANNING COMMISSION MAY AUTHORIZE VARIANCES TO STANDARDS WITHIN THE SUBDIVISION ORDINANCE FOLLOWING THE CRITERIA OF SECTION 702 OF THE ZONING ORDINANCE. PROCESS PROCEDURES SHALL BE THOSE OF SECTION 1013 OF THE ZONING ORDINANCE. IN GRANTING A VARIANCE, THE PLANNING COMMISSION OR COMMUNITY DEVELOPMENT DIRECTOR MAY ATTACH CONDITIONS WHICH THEY FIND NECESSARY TO LESSEN THE IMPACT OF THE VARIANCE ON NEARBY PROPERTY, PROTECT THE GENERAL WELFARE OF THE CITY, AND ACHIEVE THE PURPOSES OF THIS ORDINANCE.~~ ~~the Planning Commission may authorize variances to the requirements of this Ordinance, per Section 10.05(C), Minor Quasi-Judicial Review, of Ordinance 1712, the Zoning Ordinance. Application for a variance shall be made by petition of the subdivider, stating fully the grounds for the application. The petition shall be filed with the preliminary plat of the subdivision. Before a variance may be granted, the Planning Commission shall first determine:~~

- ~~A. That there are special conditions affecting the property that are not common to all property in that area;~~
- ~~B. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner and extraordinary hardship would result from strict compliance with these regulations because of the special conditions affecting the property;~~
- ~~C. That the variance complies with the spirit and intent of these regulations and will not be injurious to other property in the vicinity or otherwise detrimental to the public health, safety, or welfare.~~